

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

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|-------------------------|---|------------|
| TREVINO BARKSDALE, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CV 117-081 |
| |) | |
| SANTANDER CONSUMER USA, |) | |
| |) | |
| Defendant. |) | |

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff is proceeding *pro se* and requested permission to proceed *in forma pauperis* (“IFP”). On July 24, 2017, the Court denied Plaintiff’s IFP motion without prejudice and directed him to submit an updated IFP motion containing current, accurate, and complete financial information. (Doc. no. 4, p. 2.) The Court also directed Plaintiff to submit an amended complaint because the original complaint did not satisfy the dictates of Federal Rule of Civil Procedure 8(a). (Id. at 3-4.) The Court cautioned Plaintiff that failing to submit a timely IFP motion and amended complaint would result in a recommendation for dismissal of this action, without prejudice. (Id. at 3, 4.) The time to respond has passed, and Plaintiff has not submitted an updated IFP motion or an amended complaint as required by the Court’s July 24, 2017 Order.

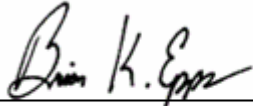
A district court has authority to manage its docket to expeditiously resolve cases, and this authority includes the power to dismiss a case for failure to prosecute or failure to

comply with a court order. Equity Lifestyle Props., Inc. v. Fla. Mowing & Landscape Serv., Inc., 556 F.3d 1232, 1240 (11th Cir. 2009) (citing Fed. R. Civ. P. 41(b)); see also Eades v. Ala. Dep't of Human Res., 298 F. App'x 862, 863 (11th Cir. 2008) (“District courts possess the ability to dismiss a case . . . for want of prosecution based on two possible sources of authority: Fed. R. Civ. P. 41(b) or their inherent authority to manage their dockets.”). Moreover, the Local Rules of the Southern District of Georgia dictate that an “assigned Judge may, after notice to counsel of record, *sua sponte* . . . dismiss any action for want of prosecution, with or without prejudice . . . [for] [w]illful disobedience or neglect of any order of the Court; or [a]ny other failure to prosecute a civil action with reasonable promptness.” Loc. R. 41.1(c). Finally, dismissal without prejudice is generally appropriate pursuant to Rule 41(b) where a plaintiff has failed to comply with a court order, “especially where the litigant has been forewarned.” Owens v. Pinellas Cty. Sheriff's Dep't, 331 F. App'x 654, 655 (11th Cir. 2009) (citing Moon v. Newsome, 863 F.2d 835, 837 (11th Cir. 1989)). see also Loc. R. 41.1(b) (Court may dismiss an action *sua sponte* for “willful disobedience or neglect of any order of the Court”).

Here, Plaintiff's failure to file an updated IFP motion or an amended complaint, or even to provide the Court with an explanation for his failure to comply with the July 24th Order, amounts not only to a failure to prosecute, but also an abandonment of his case. This is precisely the type of neglect contemplated by the Local Rules. The Court cautioned Plaintiff that a failure to respond would result in a recommendation for dismissal. Furthermore, because Plaintiff requested permission to proceed IFP, the Court finds that the imposition of monetary sanctions is not a feasible sanction.

In sum, the time to respond has passed, and Plaintiff has not submitted an updated IFP motion or an amended complaint as required by the Court's July 24, 2017 Order. Therefore, the Court **REPORTS** and **RECOMMENDS** this case be **DISMISSED** without prejudice and that this civil action be **CLOSED**.

SO REPORTED and RECOMMENDED this 18th day of August, 2017, at Augusta, Georgia.



BRIAN K. EPPS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA